

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL ISCENKO,

Plaintiff,

-against-

THE CITY OF NEW YORK and NELDRA ZEIGLER,

Defendants.

**DEFENDANTS' NOTICE OF
MOTION TO DISMISS THE
AMENDED COMPLAINT**

16 Civ. 6535 (LGS)

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PLEASE TAKE NOTICE that, upon the accompanying Defendants' Memorandum of Law in Support of Their Motion to Dismiss the Amended Complaint, dated December 30, 2016, the Declaration of Michael Nacchio, dated December 30, 2016, and the exhibit annexed thereto, and upon all the papers and proceedings previously had herein, defendants will move this Court before the Honorable Lorna Schofield, United States District Judge, Southern District of New York, at the United States Courthouse for the Southern District of New York, 40 Foley Street, New York, New York, 10007, at a date and time convenient to, and set by, the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the amended complaint on the grounds that the amended complaint fails to state a claim upon which relief can be granted, entering judgment for defendants and granting defendants costs, fees, and expenses, together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 12(a)(4)(A) of the Federal Rules of Civil Procedure, in the event that this motion to dismiss is denied, in whole or

in part, defendants reserve their right to answer and respectfully request 30 days from docketing of the order in which to answer the amended complaint.

Date: New York, New York
December 30, 2016

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 2-146
New York, New York 10007-2601
(212) 356-0839
mnacchio@law.nyc.gov

By: /s/ Michael Nacchio
Michael Nacchio
Assistant Corporation Counsel

To: Famighetti & Weinick, PLLC
Attorneys for Plaintiff
(By ECF)

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Corporation Counsel of the City of New York

Attorney for Defendants

100 Church Street, Room 2-146

New York, New York 10007-2601

Of Counsel: Michael Nacchio

Telephone: (212) 356-0839

Matter No.: 2016-032528

Due and timely service is hereby admitted.

Dated: New York, N.Y.....201__

Signed.....

Attorney for